

Border Wall Donation Acceptance Checklists

I. Real Estate and Environmental Considerations

Real Estate - Verification of landownership and permission for use or access.

- Construction footprint:
 - Federal lands
 - Title search/policy and a copy of the deed of transfer to the federal government or patent by the Bureau of Land Management indicating the land is within the border area reserved for border enforcement activities under the Roosevelt Proclamation.
 - Issuance of a permit or memorandum of agreement by the Government allowing access and construction.
 - Private lands
 - Title search/policy and a copy of the deed of transfer to the current owner.
 - Written permission for access on the property to complete the construction project which typically consists of a Right of Entry for Construction.
- Staging and Laydown Areas and Access roads to construction footprint/border:
 - Federal lands
 - Title search/policy and a copy of the deed of transfer to the federal government or patent by the Bureau of Land Management indicating the land is within the border area reserved for border enforcement activities under the Roosevelt Proclamation.
 - Issuance of a permit or memorandum of agreement by the Government allowing use of area or road(s).
 - Private lands
 - Title search/policy and a copy of the deed of transfer to the current owner.
 - Written permission for use of the property during construction for laydown or access which can consist of a temporary right of entry, memorandum of agreement, or formal lease.

Environmental

A construction project requiring permitting by a state or federal agency will require compliance with the National Environmental Policy Act (NEPA) and its supporting laws and regulations (e.g. the National Historic Preservation Act, the Endangered Species Act, the Clean Water Act, etc.) in order for the appropriate state or Federal agency to issue a permit. If a Federal agency requires the issuance of a permit for execution of the project or access to Federal lands, compliance with NEPA will be required. Almost all construction projects that involve soil excavation and grading will require a Storm Water permit (401/404 Permit) under the Clean Water Act, issued by the state in which the project occurs and/or by the U.S. Army Corps of Engineers. Therefore, most construction projects (privately funded or federally funded) require compliance with NEPA and/or compliance with the specific state environmental planning regulations.

- Compliance with NEPA includes:
 - Identification of the proposed project and alternatives
 - Initial outreach and consultation with Federal, state, and local agencies and the public to inform them of the planned project.
 - Completion of all appropriate environmental surveys to include but not limited to biological, cultural, waters of the U.S., and environmental due diligence for the possible presence of contaminated sites on the proposed site or adjacent properties.
 - Consultation with the State Historic Preservation Officer (SHPO) and potentially affected Native American Tribes in accordance with Section 106 of the National Historic Preservation Act.
 - Development of a draft environmental planning document (an Environmental Assessment or Environmental Impact Statement).
 - An Environmental Assessment is appropriate when there are no significant environmental impacts anticipated from the proposed action.
 - An Environmental Impact Statement is appropriate where there are known or anticipated significant environmental impacts or there is potential for public controversy and litigation.
 - Publication of the availability for public, Federal, state, and local agency review and comment of the draft environmental planning document (30 to 90 days).
 - Finalization of the environmental planning documentation and determination of a Finding of No Significant Impact (FONSI) when completing an Environmental Assessment or execution of a Record of Decision when completing an Environmental Impact Statement.

- Obtaining all necessary environmental permits from Federal, state, and local agencies such as a storm water permit, air permit, etc.
- Compliance with all permits during construction.
- Stabilization of the construction foot print in compliance with the appropriate storm water permit.
- Proper agency notification and termination of all permits upon completion of the project and stabilization of the site.

II. Design and Engineering Considerations

Wall design shall comply with the following design criteria and most recent editions of cited references, unless specifically directed or approved otherwise:

- (b) (7)(E), (b) (5)

(b) (7)(E), (b) (5)

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○ (b) (7)(E), (b) (5)

III. Legal and Ethical Considerations

Privately Constructed Border Barrier Checklist:

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(b) (5)

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- (b) (5) [Redacted]
- [Redacted]

Additional Risks and Considerations for Accepting Privately Constructed Border Barrier:

- **Real Estate**

- (b) (5) [Redacted]
 - (b) (5) [Redacted]
 - [Redacted]
 - [Redacted]
 - [Redacted]
 - [Redacted]

- **Treaty**

- (b) (5) [Redacted]
 - (b) (5) [Redacted]

(b) (5)

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- **Environmental**

○ (b) (5)

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- (b) (5)

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- Surveys

- (b) (5)

- Site assessment and Remediation

- (b) (5)



- General environmental compliance

- (b) (5)

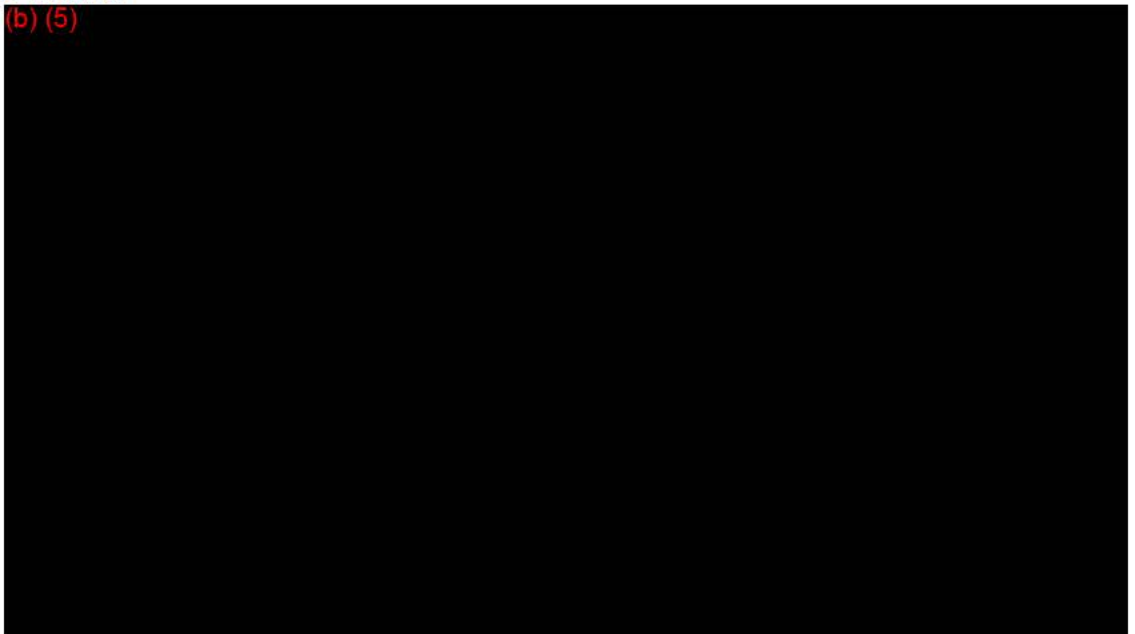


- **IIRIRA Waiver**

- (b) (5)

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(b) (5)



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- **Ethical concerns**

(b) (5)



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- **Procurement**

○ (b) (5)

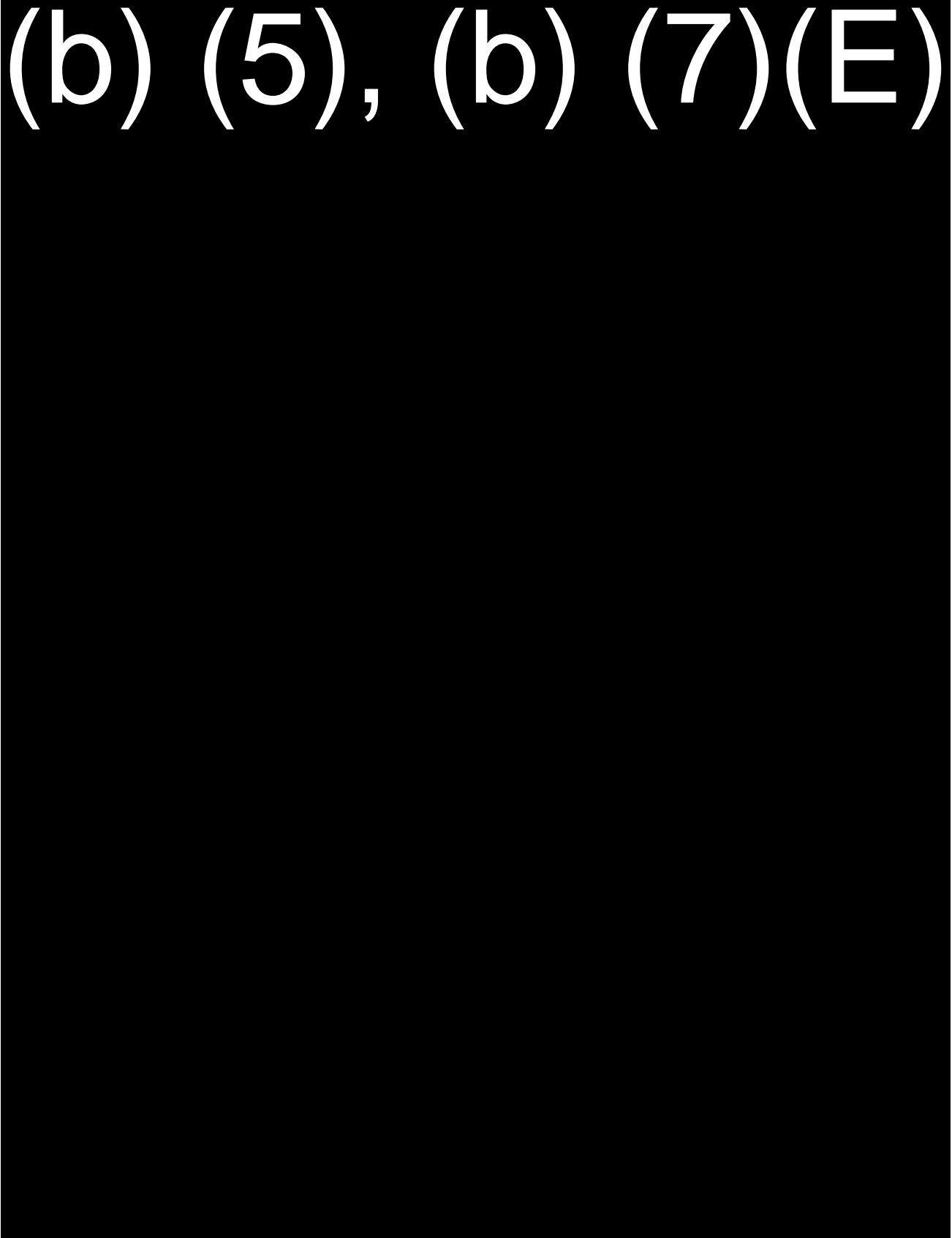


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IV. Operational Requirement Considerations

(b) (5), (b) (7)(E)



(b) (5), (b) (7)(E)

PURPOSE:

This assessment provides detailed information related to the operational viability of (b) (7)(E) border barrier privately funded and constructed through the “We Build the Wall” campaign. The barrier is located in the El Paso Sector Area of Responsibility (AOR). The report assesses the barriers suitability for meeting the U.S. Border Patrol’s operational requirements for impedance and denial. The report makes recommendations for improvements or enhancements to the structure where applicable, and identifies risks and risk mitigations associated with the barriers use in Border Patrol operations.

EXECUTIVE SUMMARY:

On June 9, 2019, the “We Build the Wall” campaign completed construction of approximately one half mile of border barrier in Sunland Park, New Mexico near El Paso, Texas. The stretch of barrier is located along the international border of the United States and Mexico in Zone (b) (7)(E) of the (b) (7)(E) Border Patrol Station’s AOR. The barrier is constructed on private property belonging to the American Brick Company. While this remains the only completed barrier construction by “We Build the Wall”, the campaign has publicly stated their intent to build additional sections of wall in other parts of the US/Mexico border. Additionally, they have expressed the desire to transfer ownership of this barrier and potentially other barriers, to the US Government, most specifically, the US Border Patrol for its use in border security operations.

On July 8th and 9th, 2019, the US Border Patrol’s Operational Requirements Management Division (ORMD) visited the site for the purpose of assessing the barrier and its utility in supporting Border Patrol operations. The visit included operational, engineering and environmental assessments of the barrier, barrier location, current and planned technology enhancements as well identifying potential liabilities and risks associated with Customs and Border Protection’s (CBP) ownership and use. Engineering and Environmental professionals accompanied ORMD to the site and their observations, concerns and recommendations are part of this assessment. Lastly, Border Patrol Agents and Command Staff from the (b) (7)(E) Border Patrol Station were interviewed to aid with assessing the barrier’s current and expected impacts.

In summary, and in the short amount of time since its construction, the barrier has and continues to have a positive operational impact on the border area of (b) (7)(E) Station. Agents report that it is impeding the entry of illicit activity into an area (b) (7)(E). The same agents advise that it is redirecting the flow of “self-surrender” illegal migrants toward the Port of Entry; creating a safer border environment for illegal migrants and agents alike. The barrier is made of similar material and constructed to similar specifications as border barrier built and deployed by Customs and Border Protection in other areas of the border. While the assessment has noted several areas where improvements can be made, the barrier is already having a positive operational impact within the area of its deployment. The following provides a brief summary of significant Operational, Engineering, and Environmental concerns identified as a result of the site assessment:

Operational:

- Barrier is positioned along border in what would typically be considered a “primary” barrier location (b) (7)(E).

LAW ENFORCEMENT SENSITIVE

- (b) (7)(E)
- (b) (7)(E)

Engineering:

- (b) (7)(E), (b) (5)
- (b) (7)(E), (b) (5)
- (b) (7)(E), (b) (5)

Environmental:

- CBP requires further information on environmental clearances/impacts related to this project to fully understand potential liabilities.
- (b) (5)
- (b) (5)

OPERATIONAL ASSESSMENT:

The US Border Patrol utilizes border barrier to accomplish three primary operational objectives: Deterrence and Impedance, Containment and Denial, and Reduction of the Enforcement Footprint. The ability to accomplish these objectives is essential to achieving operational control of the border. Prior to deploying barrier to any given area, the USBP assesses the area's operational activity, location, and threat characteristics to determine what barrier attributes are necessary to achieve the desired objectives. Barrier attributes include (b) (7)(E)

(b) (7)(E) Early assessments of construction material indicated that all USBP border barrier will be constructed of (b) (7)(E)

(b) (7)(E) While the construction material remains constant, other attributes are determined through analysis and are specific to that area's needs.

The described attribute analysis has been applied to the area where the "We Build the Wall" barrier is constructed (Zone (b) (7)(E) of the (b) (7)(E) Station AOR). That analysis indicates that USBP requires a barrier equipped with (b) (7)(E)

The following matrix provides a scoring assessment that indicates how closely the "We Build the Wall" barrier meets USBP (b) (7)(E) requirements. (b) (7)(E), (b) (5)

(b) (7)(E), (b) (5)

LAW ENFORCEMENT SENSITIVE

[illegible]

LAW ENFORCEMENT SENSITIVE

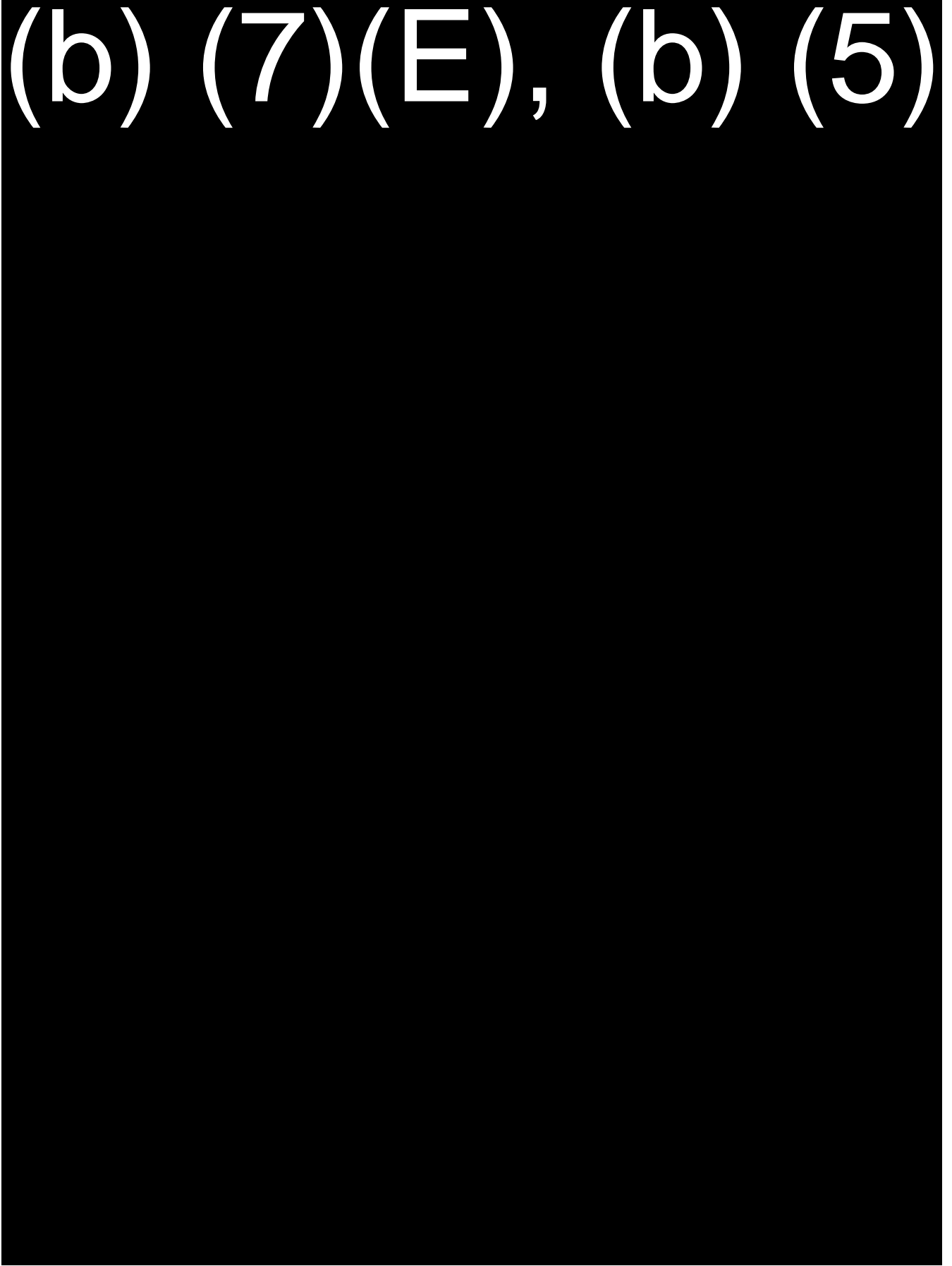
Requirement Criteria	Concern/Issue	Risk	Mitigation
(b) (7)(E), (b) (5)			

~~FOR OFFICIAL USE ONLY~~

(b) (7)(E), (b) (5)



(b) (7)(E), (b) (5)



ENGINEERING ASSESSMENT:


(b) (7)(E), (b) (5)



(b) (7)(E), (b) (5)



(b) (7)(E), (b) (5)



(b) (7)(E), (b) (5)




(b) (7)(E), (b) (5)




(b) (7)(E), (b) (5)



(b) (7)(E), (b) (5)



(b) (7)(E), (b) (5)



(b) (7)(E), (b) (5)



(b) (7)(E), (b) (5)



FUTURE EFFORTS:

The following is a short list of items that should be used to work with the "We Build the Wall" organization if they contemplate any future construction they would like to turn over to BP.

- Checklist: A checklist should be developed for a pre-final and final acceptance inspection to ensure all operational requirements are met.
- Geotechnical Information and Hydrology Study: Use and sharing of this information will reduce the questions at the end when correction could be very costly. In addition, the hydrology study may need to be shared with IBWC to ensure that treaty requirements are adhered to.
- Alignment: The operational requirement for a primary wall is for a ^{(b)(7)} offset from the border. This needs to be maintained (b) (5)
- Debris/spoils removal: (b) (5)
- QA on TI standards (outside hired by WBTW, not Contractor): (b) (5)

ENVIRONMENTAL NOTES AND CONSIDERATIONS:

Completed Project in Sunland Park & Proposed Project (b) (5)

- (b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

○ Treaty Implications

(b) (5)

○ Acceptance of Donations

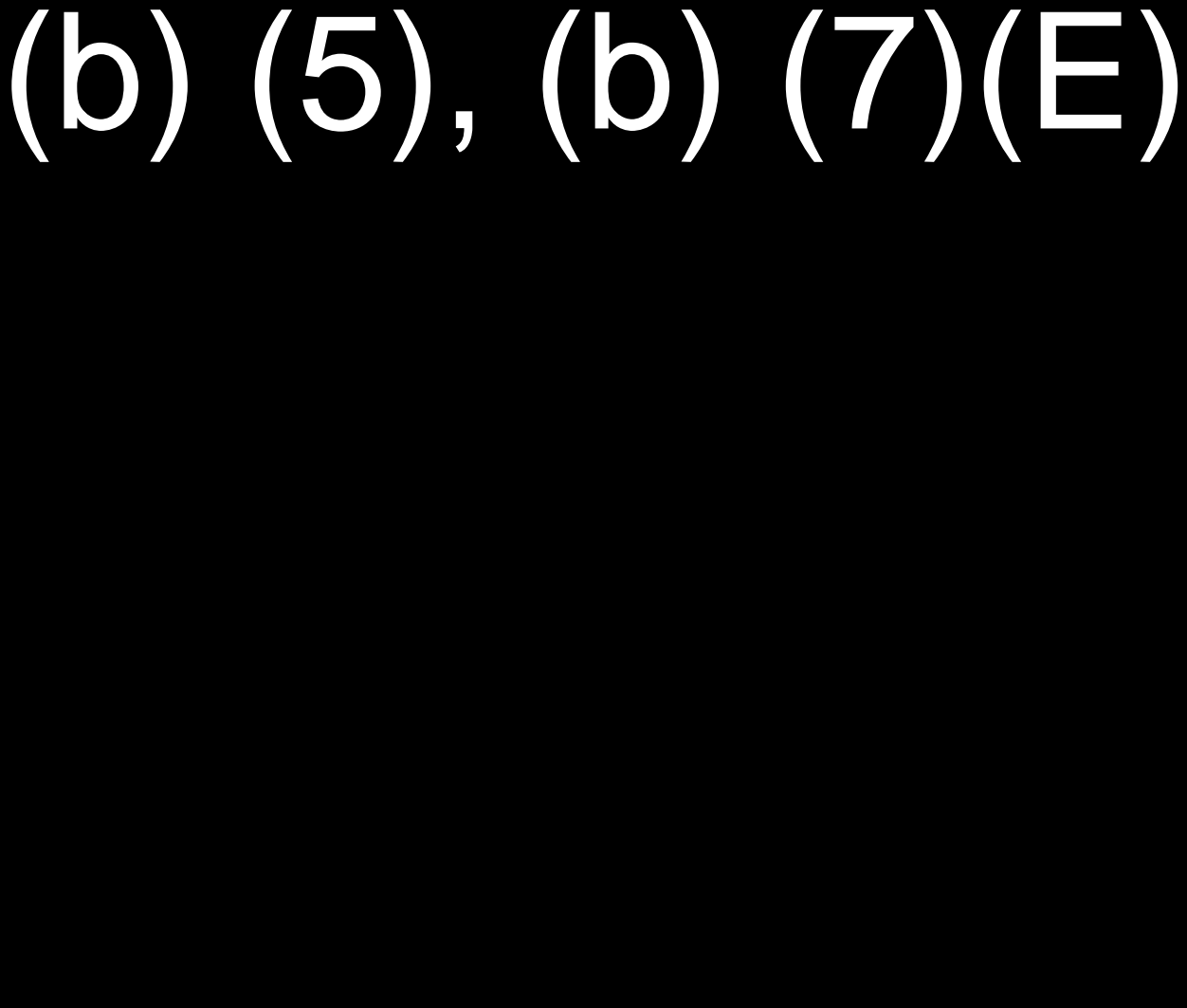
(b) (5)

Background – Proposed Project (b) (7)(E)

Real Estate Ownership

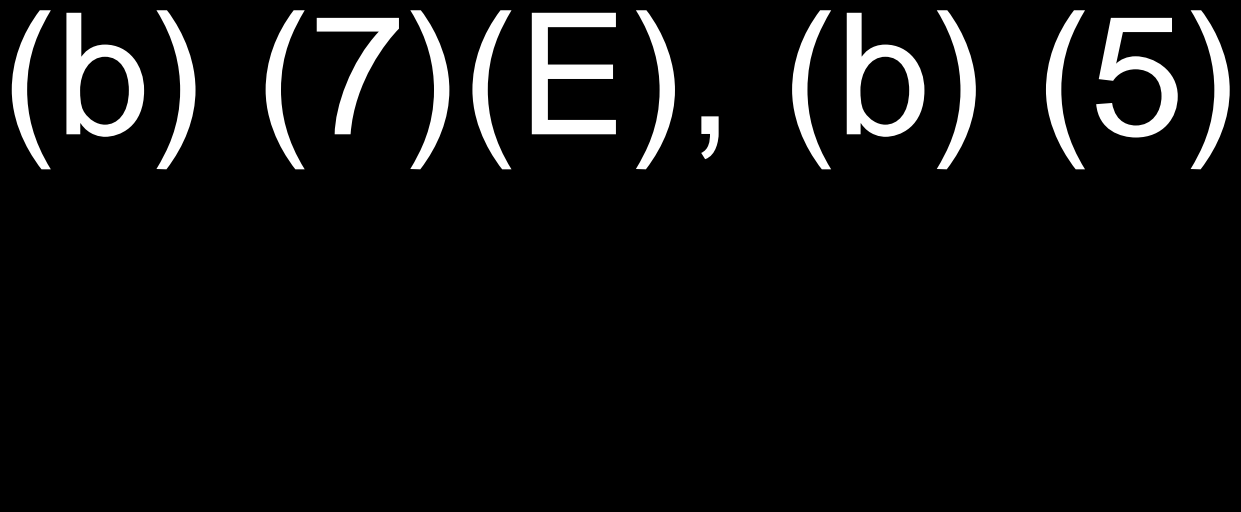
• (b) (5), (b) (7)(E)
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(b) (5), (b) (7)(E)



Challenges with Construction of Barrier

- (b) (7)(E), (b) (5)



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• (b) (7)(E), (b) (5)

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Background – Completed Project in Sunland Park

- *We Build the Wall* is completing their project, currently finishing lights and (b) (7)(E) installation. Bollard panel installation was completed on or about June 6th/7th, approximately 1 week behind schedule (per *We Build the Wall*'s schedule claims).
- Specific components of their project are:
 - Approximately (b) (7)(E) steel bollard wall with (b) (7)(E)
 - (b) (7)(E)
 - Paved road
 - 14 Light Poles with 3 LED lights per pole
 - (b) (7)(E)
 - Manual sliding gate installed on east end of project

• (b) (7)(E), (b) (5)

(b) (7)(E), (b) (5)



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U.S. BORDER PATROL
EL PASO SECTOR
REAL ESTATE OWNERSHIP

(b) (7)(E)

Initial Real Estate Ownership Information

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(b) (7)(E)

(b) (7)(E)

Real Estate Certification

- In order to fully certify real estate ownership of this area by the U.S. Government, a title records search to include review of the Bureau of Land Management Deeds prepared for the areas included in the Roosevelt Proclamation and adjoining private parcels would be required.
- While current data suggests there is a 60 foot wide swath of land along the border owned by the U.S. Government, USACE/CBP have previously identified poor records or errors in records for the 60 foot wide swath of land reserved for border enforcement activities by President Roosevelt (i.e. the Roosevelt Reservation). A recent example is land to the west of the (b) (7)(E) area near the (b) (7)(E) where prior border fence was constructed in 2007 in area believed to be owned by the Government but subsequently identified as owned by the State of New Mexico.

Real Estate Access to the Border

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(b) (7)(E)

Area of Criteria		Considerations		Characteristics Used to Meet Requirement	Completed	
REAL ESTATE						
Real Estate	Verification of landownership and permission for use or access.	Verification of landownership and permission for use or access.				
		1	(b) (5)			
		Federal lands:				
		2	(b) (5)			
		3	(b) (5)			
		Private lands:				
		4	(b) (5)			
		Federal lands:				
		5	(b) (5)			
		6	(b) (5)			
		Private lands:				
		7	(b) (5)			
		8	(b) (5)			
9	(b) (5)					
ENVIRONMENTAL						
Environmental	Compliance with NEPA	10	(b) (5)			
		11	(b) (5)			
		12	a.	(b) (5)		
			b.			
			c.			
			d.			
			e.			
			f.			
		13	(b) (5)			

DESIGN & ENGINEERING									
Design and Engineering	Wall design shall comply with the following design criteria and most recent editions of cited references, unless specifically directed or approved otherwise.	17	(b) (5), (b) (7)(E)						
		18							
		19							
		20							
		21							
		22							
		23							
		24							
		25							
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		27	a.	(b) (5), (b) (7)(E)					
			b.						
			c.						
		28	(b) (5), (b) (7)(E)						
		29	(b) (5), (b) (7)(E)						
		30							
		31							
		32							
		33							
		34	a.	(b) (5), (b) (7)(E)					
b.									
c.									
d.									



LEGAL

OPERATIONAL REQUIREMENTS

From: (b)(6);(b)(7)(C)
To: (b)(6);(b)(7)(C)
Subject: FW: After Action Report - We Build the Wall
Date: Wednesday, August 28, 2019 8:59:10 AM
Attachments: [Barrier Donation Checklist v11 \(distributed copy\).pdf](#)

As requested.

(b)(6);(b)(7)(C)
Desk: (b)(6);(b)(7)(C)
Mobile: (b)(6);(b)(7)(C)

From: (b)(6);(b)(7)(C)
Sent: Tuesday, August 27, 2019 6:20 PM
To: PEREZ, ROBERT E (b)(6);(b)(7)(C)
Cc: PROVOST, CARLA (USBP) (b)(6);(b)(7)(C); LUCK, SCOTT A (USBP) (b)(6);(b)(7)(C); MARTIN, JERRY B (b)(6);(b)(7)(C); SINGLETON, RUYNARD R (b)(6);(b)(7)(C); HASTINGS, BRIAN S (b)(6);(b)(7)(C)
Subject: After Action Report - We Build the Wall

Deputy Commissioner – Below please find a high level summary/after action from today's meeting with the team from We Build the Wall for your information and to share as needed.

Meeting Summary/After Action:

CBP Leadership, including Acting Commissioner (AC1) Morgan, Deputy Commissioner Perez, Directorate Chief Brian Martin, and Deputy Executive Director (b)(6);(b)(7)(C), along with representatives of the Office of Chief Counsel sat down with Kris Kobach, (b) (6) and (b) (6) of We Build the Wall (WBTW) to discuss the privately funded wall project recently completed in Sunland Park, New Mexico.

AC1 Morgan started the meeting by thanking the WBTW for having the meeting and for their positive interaction they have had with CBP. AC1 Morgan provided insight into the enhanced safety WBTW's project provides for the Border Patrol Agents working in that area. WBTW informed CBP of the challenges they went through with the initial "go fund me" process, and the ongoing challenges relating to the land acquisition process.

U.S. Border Patrol (USBP) representatives outlined the results of the operational assessment that was conducted on the project and identified some areas of concern and other approaches USBP takes when undertaking similar projects. WBTW representatives asked for clarification on what a donation offer would need to look like and whether CBP would be amenable to acceptance if an offer were made. Deputy Commissioner Perez expressed that CBP is interested in exploring all available options if an offer were made.

WBTW asked further questions about USBP priorities and border wall system specifications. WBTW asked if CBP would be open to considering a proposal for a project in the (b) (7)(E) New

Mexico) area. CBP communicated that we would consider proposals if they were submitted. WBTW asked about specific timeframes regarding the proposal, and was informed that specific timelines are difficult at this stage of the process and that CBP would need the proposal to evaluate first.

WBTW indicated that they are exploring projects in the following areas:

• (b) (7)(E)

The meeting concluded on a positive note with WBTW being provided the USBP Barrier Checklist (attached) and expressed a desire for further communication. CBP will reach out to WBTW for follow up in 2-3 weeks.

(b)(6);(b)(7)(C)

Deputy Executive Director, Strategic Planning & Analysis

U.S. Border Patrol

Desk: (b)(6);(b)(7)(C)

Mobile

(b)(6);(b)(7)(C)



Area of Criteria		Considerations		Characteristics Used to Meet Requirement	Completed
REAL ESTATE					
Real Estate	Verification of landownership and permission for use or access.		Verification of landownership and permission for use or access.		
			1 (b) (5)		
		Construction Footprint	Federal lands:		
			2 (b) (5)		
			3 (b) (5)		
			Private lands:		
			4 (b) (5)		
		Staging & Laydown Areas & Access roads to construction footprint/border.	Federal lands:		
			5 (b) (5)		
			6 (b) (5)		
			Private lands:		
			7 (b) (5)		
			8 (b) (5)		
			9 (b) (5)		
		ENVIRONMENTAL			
Environmental		10 (b) (5)			
		11 (b) (5)			
		12 (b) (5)			
			a. (b) (5)		
			b. (b) (5)		
	Compliance with NEPA:	c. (b) (5)			



Envi		d.	(b) (5)		
		e.			
		f.			
		13	(b) (5)		
DESIGN & ENGINEERING					
gn and Engineering	Wall design shall comply with the following design criteria and most recent editions of cited references, unless specifically directed or approved otherwise.	17	(b) (5), (b) (7)(E)		
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LEGAL					
LEGAL		35	(b) (5)		
		36			
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		38			
OPERATIONAL REQUIREMENTS					
		39	(b) (5), (b) (7)(E)		



OPERATIONAL REQUIREMENTS

The following questions are intended to provide a better understanding of the U.S. Border Patrol's requirements of a border wall system, and to provide guidance on minimum construction standards.

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(b) (5), (b) (7)(E)



			(b) (5), (b) (7)(E)	
		47		

From: [MARTIN, JERRY B](#)
To: kkobach@gmail.com
Cc: [MARTIN, JERRY B](#); (b)(6);(b)(7)(C)
Subject: Proposed Donation of Border Wall, (b)(7)(E), New Mexico
Date: Friday, January 31, 2020 8:25:30 AM
Attachments: [Wall Attachments V2 01292020.pdf](#)
[Gift Donation Form 112-02.pdf](#)

Mr. Kobach,

Thank you for your recent communication regarding We Build the Wall's (WBTW) proposed donation of border wall. It is my understanding that WBTW, a private entity, would like to start construction on approximately (b)(7)(E) of border wall in (b)(7)(E) New Mexico. Upon completion, WBTW would like to donate this wall as a gift to U.S. Customs and Border Protection (CBP). CBP has reviewed the information WBTW has provided to date regarding the proposed donation. To the extent that WBTW intends to make a formal donation offer to CBP, set out below is the additional information that should be included in the submission.

CBP would require this information in order to consider and potentially act upon WBTW's donation offer.

SUBMISSION PROCESS

In order to make a formal offer of donation or gift, WBTW must first submit a formal letter of intent to the Department of Homeland Security (DHS) and CBP. In order to properly evaluate WBTW's gift, CBP needs the information required by DHS Form 112-02. For your convenience, enclosed is a copy of DHS Form 112-02. Those requirements include a detailed description of the gift along with any donor's name and address, as well as any past, present, or pending matters and activities involving the Department and the circumstances regarding donation of the gift. Additionally, the Department's gift acceptance policies further require the donor's estimate of the gift's value, which for non-cash gifts should be the gift's estimated market value.

In addition to the items listed above, WBTW's submission should address the items listed below. The items listed below will assist CBP in its evaluation of WBTW's gift and/or any CBP authorization to construct on federal land that is under CBP's administrative jurisdiction. From our previous discussions, we understand WBTW has offered to fund all design and construction and all real estate and environmental documentation and permitting for the proposed project and will ensure the donation meets the U.S. Border Patrol (USBP) operational requirements.

ALIGNMENT MAP

WBTW must provide an alignment map that is sufficiently identifies the location the proposed border wall segment. The map will allow CBP to evaluate the proposed location relative to United States Border Patrol (USBP) operations. It is CBP's understanding, based on materials previously submitted by WBTW, that the proposed (b)(7)(E) wall project is (b)(7)(E) (Location coordinates – Start: (b)(7)(E) Stop: (b)(7)(E)). For your convenience, enclosed you will find a map that shows CBP's understanding of the proposed project location. WBTW's submission should confirm this understanding and show precisely where the proposed wall will be situated.

DESIGN & CONSTRUCTION

As a part of its submission, WBTW must confirm that the proposed wall segment will adhere to the USBP Tactical Infrastructure (TI) Design Standards as the design criteria for the wall design and that WBTW will consult with USBP on any design and construction questions to

ensure the wall meets the operational requirements of USBP.

Those design standards include the following requirements or conditions:

Design

(b) (7)(E), (b) (5)

Construction

- All wall should be constructed in accordance with the TI Design Standards.
- Regular communication with USBP personnel, to include providing a high-level milestone schedule, to ensure construction does not adversely impact operations.
- Consultation with USBP subject matter experts prior to start of design to discuss and incorporate such items as wall alignment, design criteria, construction criteria into the design.
- Consultation with USBP subject matter experts during preliminary design and prior to design completion to receive feedback regarding design progress.
- Regular meetings with USBP subject matter experts on a weekly basis but no less than once per month throughout construction of the wall to discuss progress, construction testing, questions and issues encountered by the contractor.

REAL ESTATE & ENVIRONMENTAL

WBTW's submission should also address real estate and environmental issues, to include the following:

Environmental

- Regarding the need for 404 permits under the Clean Water Act, WBTW has stated that the U.S. Army Corps of Engineers (USACE) "has no interest" in the proposed project areas, as there are no Waters of the United States that are within the proposed project area or elsewhere that will be affected by the proposed project. WBTW cites to a "hydro analysis" that was performed in making this determination.
 - WBTW should include a copy of the hydrological analysis and/or any delineation survey that was performed and copies of the correspondence with USACE showing its determination that no 404 or other Clean Water Act permits are required.
- WBTW has already provided CBP with the results of cultural/historical assessment that has been performed concerning the proposed project area.
 - WBTW should provide any correspondence or feedback it has received from the New Mexico State Historic Preservation Officer concerning such assessment and the potential impacts of the proposed project.
- As to other potential environmental obligations, as has been discussed, CBP may be required to comply with the National Environmental Policy Act, the Endangered Species Act, or other environmental statutes in accepting a gift or authorizing construction on federal property. WBTW's donation intent should discuss whether it has the ability to assist with such compliance by CBP. Such assistance would likely come in the form of, among other things, providing project information, conducting additional resource surveys of the project area, or providing a consultant to assist in the preparation of required environmental documents.

CONSTRUCTION CLOSE-OUT

Finally, as a part of its submission WBTW should include or discuss the items that will be provided once construction is complete.

- Final construction close-out package shall be provided by the construction contractor prior to acceptance of the project and consideration for acceptance by CBP. The construction close out package shall include, but not be limited to:
 - Results of all materials testing conducted by a third party consultant.
 - Certification that quality assurance was conducted by an independent third party consultant and associated documentation.
 - Shop and fabrication drawings.
 - Final as-built plans certified by the contractor including, but not limited to, final surveyed location of the wall, plans, profiles, notes and details.

ENCLOSURES:

1. DHS GIFT DONATION FORM 112-02
2. (b) (7)(E) MAP
3. PROJECT RENDERING

Should you have questions or concerns, please do not hesitate to reach out to our team – Chief

Martin or DXD (b)(6);(b)(7)(C) CC'd here – who will address your questions and coordinate any additional communications with me.

VR,

Brian Martin

U.S. Border Patrol

Chief of Strategic Planning and Analysis

Washington, DC

O- (b)(6);(b)(7)(C)

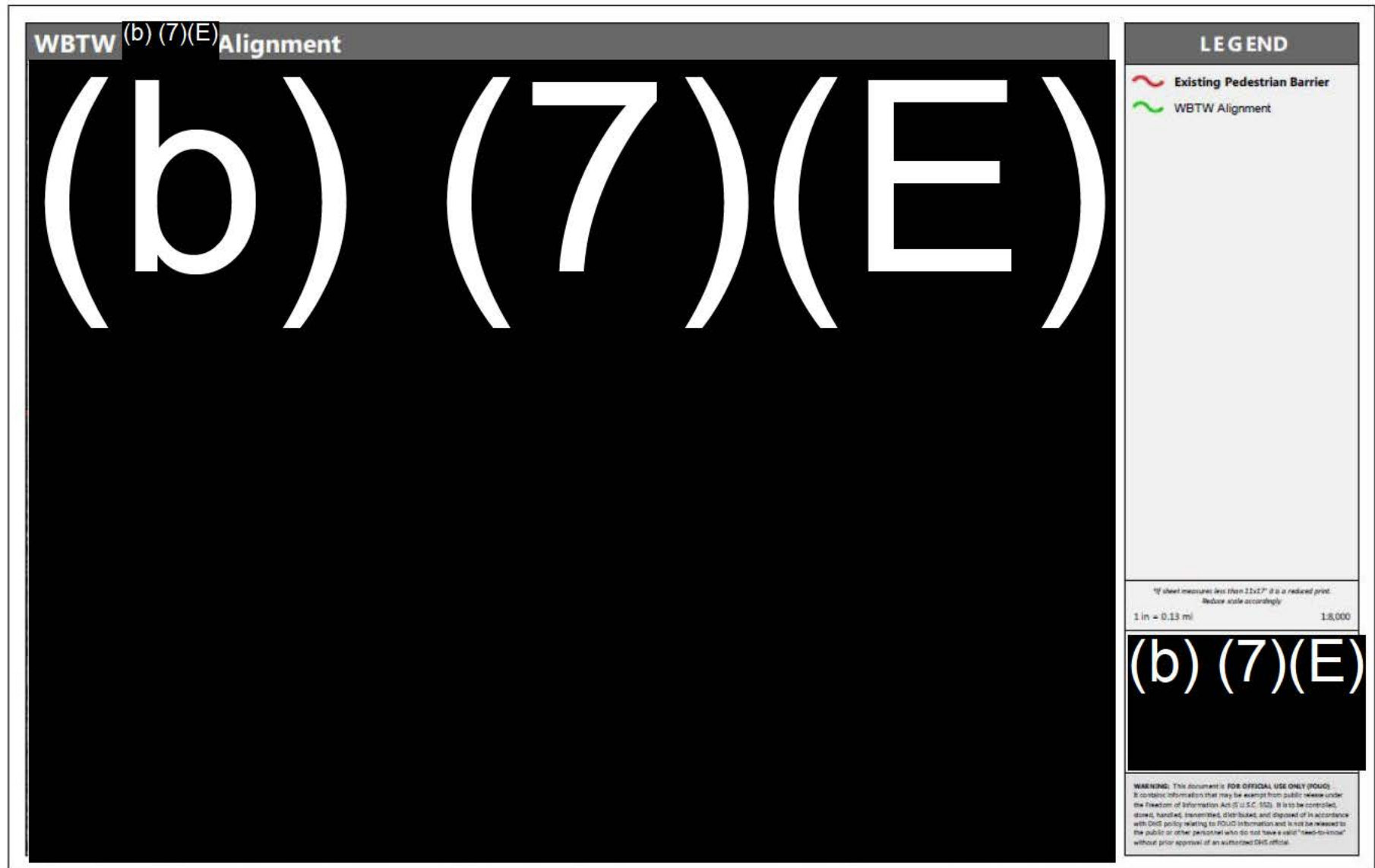
M- (b)(6);(b)(7)(C)

Project Rendering

(b) (5), (b) (7)(E)



(b) (7)(E), NM Alignment Map



ATTACHMENT 1

**GIFT DONATION FORM
DEPARTMENT HOMELAND SECURITY**

This form must be completed upon receipt of a gift offer and forwarded to:

**Chief Administrative Officer
Department of Homeland Security
Washington, DC 20528**

The following gift was offered to the Department of Homeland Security:

Description of gift: *Please ensure that the donor of the property understands that this property is given to the Department of Homeland Security and will become the property of the United States Government. Also, the donor must understand this donation is irreversible and the donor will retain no personal rights of use, ownership, or possession.*

Donor's Name: _____

Donor's Full Address: _____

Present/past business with the Department: _____

Circumstances regarding donation of gift: _____

How gift will aid and facilitate the Department's mission _____

Gift Value: _____ if non-cash, list the donor's estimated fair market value: _____

Note: The value listed above is the donor's estimate, whether by fair market value or appraised value. The Department of Homeland Security does not confirm or endorse this as the value of the gift nor make any representation of the value of this gift for any tax purpose.

Restrictions on the use of the gift: _____

Pending Matters/Activities: Please indicate below any matters pending or likely to arise in the future that might involve the donor or the donor's organization. Give consideration to all individuals or members of an organization (if applicable) involved in the donation of this gift:

Identify the Department of Homeland employee who received the gift donation and under what circumstances: _____

If the gift was solicited, indicate the date of approval by the Secretary/Deputy Secretary: _____

I have determined that the acceptance of this gift is appropriate in accordance with the current Directive and accept the offer on behalf of the Department of Homeland Security

Concurrence by Authorized Agency Official's Ethics Officer:

Ethics Officer

Date

Secretary or Authorized Agency Official

Date

DHS Form 112-02 (1/08)

From: [MARTIN, JERRY B](#)
To: (b) (6), (b) (7)(C); [SINGLETON, RUYNARD R](#); (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: [BORDERWALLTASKS](#)
Date: RE: Formal Letter of Intent re (b) (7)(E) Project
Thursday, February 13, 2020 4:12:28 PM

(b)
(6)

Thank you for the quick review and response.

(b) (6), (b) (7)(C)

We have no issues or concerns with the donation package as submitted. Please advise once you have completed your review and are ready to provide opinion.

VR,

Brian Martin
U.S. Border Patrol
Chief of Strategic Planning and Analysis
Washington, DC
O- (b) (6), (b) (7)(C)
M (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 13, 2020 2:56 PM
To: MARTIN, JERRY B (b) (6), (b) (7)(C); SINGLETON, RUYNARD R
(b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
<(b) (6), (b) (7)(C)>
(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
Subject: RE: Formal Letter of Intent re (b) (7)(E) Project

XD Singleton and Chief Martin – (b) (6), (b) (7)(C) and team reviewed this morning and the Border Wall Team has no issue with the donation as laid out in the offer letter. The letter addresses all design/execution/RE/ENV/closeout components.

Thanks,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Senior Communications Analyst

Agile Group

Infrastructure Portfolio

Program Management Office Directorate

United States Border Patrol

Mobile: (b) (6), (b) (7)(C)

Desk (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Monday, February 10, 2020 1:07 PM

To: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Cc: MARTIN, JERRY B (b) (6), (b) (7)(C); SINGLETON, RUYNARD R

(b) (6), (b) (7)(C); BORDERWALLTASKS (b) (7)(E)

Subject: Fwd: Formal Letter of Intent re (b) (7)(E) Project

All - We have received an official donation offer from WBTW that needs to be thoroughly and thoughtfully adjudicated in as expeditious a manner as possible. After speaking with (b) (6), (b) (7)(C) I think we agree that OCC needs to be the official shepherds of such a request. That said, we still need to provide our thoughts and assessment of the operational (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and execution (b) (6), (b) (7)(C) elements as part of any adjudication. Please review and provide your individual assessments to XD Singleton and Chief Martin for final review by COB Thursday.

(b) (6), (b) (7)(C) - In the interim, I think you all can also get started. We'll send you our thoughts by Friday. I was able to tap some old OFAM colleagues to find the POC for CBP's larger DAP program in case we need further counsel as well.

From OFAM:

The OFO DAP Branch Chief is (b) (6), (b) (7)(C) and the POC's are (b) (6), (b) (7)(C)

The office of Chief Counsel POC is (b) (6), (b) (7)(C)

Sent from my iPad

Begin forwarded message:

From: "kkobach@gmail.com" <kkobach@gmail.com>

Date: February 7, 2020 at 9:48:50 PM EST

To: "MARTIN, JERRY B" (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
Cc: (b) (6)
Subject: Formal Letter of Intent re (b) (7)(E) Project

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact the [CBP Security Operations Center](#) with questions or concerns.

Brian,

Please find attached We Build the Wall's formal letter of intent. Attachments include:

1. DHS GIFT DONATION FORM 112-02
2. ALIGNMENT MAP
3. PROJECT RENDERING
4. HYDRO ANALYSIS
5. RAINFALL DATA

As we discussed at our meeting last week, we would appreciate it if you team could review this package as quickly as possible. The NM SHPO has 30 days to review our report to them—a period that commenced on February 5, 2020. If your review could be completed within the same period, by March 6, that would be ideal.

Thanks your work on this. We look forward to contributing to our nation's border security and to advancing CBP's mission.

Kris

MARTIN, JERRY B

From: MARTIN, JERRY B
Sent: Tuesday, July 30, 2019 10:17 AM
To: kkobach@gmail.com
Subject: Re: WBTW Permitting Question

Mr. Kobach,

Unfortunately the letter is considered official government correspondence and I'm able to send externally. I will say that our letter advocates (b) (5), (b) (7)(E) (b) (5)
(b) (5)

Regards,

Brian

Sent from my iPhone

On Jul 25, 2019, at 5:44 PM, "kkobach@gmail.com" <kkobach@gmail.com> wrote:

Brian,

That's great news. Is there any chance you could email me a copy of the letter, so that I am fully informed when I next speak with Commissioner Harkins?

If you need to reach me quickly don't hesitate to text me at my cell number below. Thanks.

Kris

Cell number (b) (6)

On Jul 25, 2019, at 2:00 PM, MARTIN, JERRY B (b)(6);(b)(7)(C) wrote:

Mr. Kobach,

I am following up on your conversation with Deputy Commissioner Perez today regarding the U.S. International Boundary and Water Commission's statement (b) (7)(E)

(b) (7)(E) (b) (7)(E)
(b) (7)(E) A letter has been sent from USBP leadership to Commissioner Harkins indicating our request (b) (7)(E)
(b) (7)(E) Feel free to follow up with Commissioner Harkins and do not hesitate to reach out if we can be of further assistance.

VR,
Brian

*Brian Martin
U.S. Border Patrol
Chief of Strategic Planning and Analysis*

Washington, DC

O- (b)(6);(b)(7)(C)

M-

From: kkobach@gmail.com <kkobach@gmail.com>

Sent: Wednesday, July 24, 2019 9:33 PM

To: MARTIN, JERRY B (b)(6);(b)(7)(C)

Subject: Re: WBTW Permitting Question

Brian,

Thanks for your message. I think you are referring to my discussion with Deputy Commissioner Perez regarding the future control of the section of wall we already constructed. In that case, we have already granted to DHS and recorded with the county a permanent easement to the wall and a (b)(7)(E) strip that it is on. That would not be revocable and should suffice to allow the Border Patrol to make any changes it wishes. If the Border Patrol wishes to gain additional control of that section we are more than happy to discuss it.

We are flexible with how we approach each project and ultimately want to best assist the Border Patrol in it's mission. So, for example, at (b)(7)(E) DHS already owns the land outright. We would simply be coming on site, building, then leaving a gift to the Border Patrol.

Please let me know if you have follow up questions. Hopefully we will have a chance to meet soon.

Yours,
Kris

On Jul 24, 2019, at 4:39 PM, MARTIN, JERRY B (b)(6);(b)(7)(C) wrote:

Mr. Kobach,

As I understand it from Deputy Commissioner Perez, you raised a question regarding the possibility of building barriers on land permitted by the (b)(7)(E) to build. Without detailed and specific background on this issue, we had to make some assumptions in answering the inquiry – most notably that the final goal of any construction would be, as previously stated by We Build the Wall, to donate the final product to the government.

Unfortunately, if the intent is to donate the completed wall to the government, a temporary interest such as a permit would likely not be sufficient. CBP acquires permanent real estate interests to support construction and long-term maintenance of border wall. There are numerous reasons for this, including the fact that acquiring a permanent interest in the real estate ensures that CBP will have permanent access to the barrier as well as the ability to quickly and effectively maintain the barrier, especially when emergency repairs are needed to safeguard the integrity of the barrier itself. Additionally,

acquiring a permanent real estate interest also allows CBP to make future modifications to the barriers without seeking additional permission from the landowner. For instance, CBP could install additional or new (b) (7)(E) (b) (7)(E) without having to seeking additional permission or consent from the private landowner. In contrast, acquiring a permit or license from a private landowner has significant shortcomings. As an example, permits and licenses are generally not considered to be real estate interests, therefore, they typically can be revoked by the person granting the license. Revocation of the license also would terminate CBP's ability to maintain the infrastructure, thus shortening the life cycle of the barrier.

That said, we made some assumptions in answering this question. If there is other information that would be helpful or you believe might change the outcome, we would be happy to continue exploring to ensure we adequately address the question posed.

VR,
Brian

Brian Martin
U.S. Border Patrol
Chief of Strategic Planning and Analysis
Washington, DC

O- (b)(6);(b)(7)(C)
M-

WE BUILD THE WALL TALKING POINTS
February 12, 2020

- We Build the Wall (WBTW), a private entity, sent CBP an official donation offer on February 7, 2020.
- This donation includes the offer of (b) (7)(E) border wall in (b) (7)(E) New Mexico.

- (b) (5)

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INTERNAL NOTE for C1: (b) (5), (b) (7)(E)



1 Opening Remarks

2 Constructed Border Barrier in El Paso Sector

- Assessment
 - Benefits
 - The structure is having a positive operational impact in the area of its deployment:
 - Field personnel report (b) (7)(E).
 - Challenges/Considerations
 - (b) (7)(E), (b) (5)
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3 Donation Consideration

- In evaluating whether to accept a gift, the government must understand:
 - Specifications on all included infrastructure
 - Clarity on ownership of both land and physical barriers
 - Fair market value of the gift
 - Contractual or other relationships between parties

4 Future Privately Funded Border Barrier Construction

- CBP Checklist

5 Closing Remarks – DHS & CBP

Additional Risks and Considerations for Accepting Privately Constructed Border Barrier

- Real Estate

- (b) (5)

[REDACTED]

- Treaty

- (b) (5)

[REDACTED]

- Environmental

- (b) (5)

[REDACTED]

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

o

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b) (5) [Redacted]

[Redacted]

[Redacted]

(b) (5)

[Redacted]

[Redacted]

- (b) (5) [Redacted]

[Redacted]

Checklist Items

- Surveys
 - (b) (5) [Redacted]
- Site assessment and Remediation
 - (b) (5) [Redacted]
- General environmental compliance
 - (b) (5) [Redacted]

(b) (5)

- (b) (5)

(b) (5)

[illegible]

(b) (5)

(b) (5)

- (b) (5)

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

- (b) (5) [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

- Procurement

- (b) (5) [Redacted]
- [Redacted]
- [Redacted]

Border Wall Donation

OVERVIEW

(b) (5)

- (b) (5) [REDACTED] will ensure the donation meets the U.S. Border Patrol (USBP) operational requirements.
- WBTW must provide an alignment map that is sufficient to USBP operations.
- (b) (7)(E) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]

DESIGN

WBTW must agree to the following conditions:

- (b) (5), (b) (7)(E)

- (b) (5) [REDACTED]

CONSTRUCTION

- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]
- (b) (5) [REDACTED]

REAL ESTATE & ENVIRONMENTAL

- (b) (5) [REDACTED]
 - (b) (5) [REDACTED]
- (b) (5) [REDACTED]
 - (b) (5) [REDACTED]
- (b) (5) [REDACTED]
 - (b) (5) [REDACTED]

ATTACHMENTS:

1. DHS GIFT DONATION FORM 112-02
2. (b) (7)(E) MAP
3. PROJECT RENDERING

Checklist Item No. 4: *The privately-constructed barrier must be in compliance with applicable environmental laws and regulations*

Background:

- (b) (5)

-

-

○ (b) (5)

■ (b) (5)

■

● (b) (5)

●

IIRIRA Waiver

● (b) (5)

●

- (b) (5) [Redacted]
- [Redacted]

Proposed Checklist Requirements

- Environmental Surveys: (b) (5) [Redacted]
 - (b) (5) [Redacted]
- Environmental Site Assessment and Remediation: (b) (5) [Redacted]
 - Internal notes: (b) (5) [Redacted]

(b) (5) [Redacted]

- Environmental Compliance: (b) (5) [Redacted]

- Internal notes: (b) (5) [Redacted]

Privately Constructed Border Barrier Checklist

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(b) (5)

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